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the land of an adjoining owner without an easement to do so violates that owner's right of property without regard to the question of negligence. The liberal rule is not quite consistent with this theory. The fears of the New Hampshire court, *Garland v. Towne*, *supra*, that the enforcement of the strict rule would prevent the growth of cities does not seem justified in view of the small amount of litigation on this question.

WATERS—RIGHT OF RIPARIAN OWNERS TO DIVERT WATER.—Plaintiff and defendant are opposite riparian proprietors, each owning to the center of the stream. As a defense to an action to condemn its water rights defendant contends that it can develop water power by erecting a wing dam in its half of the river. *Held*, in awarding a new trial that the diversion of one-half the stream by such a wing dam would violate plaintiff's right to have the stream flow by its land in undiminished volume. *Blue Ridge Interurban Ry. Co. v. Hendersonville Light & Power Co.* (N. C. 1915), 86 S. E. 296.

The water rights of opposite riparian owners or occupiers arise by operation of law from the ownership or occupation of the banks, and the extent of the rights is not dependent on title to the bed of the stream. *Pratt v. Lamson*, 84 Mass. 275, 285; *Lyon v. Fishmongers Co.*, L. R. 1 App. Cas. 662, 673, 683; *Diedrich v. Northwestern Union Ry. Co.*, 42 Wis. 248, 261; but see *Wilson v. Harrisburg*, 109 Me. 207. Such rights do not give title to the water or any portion of it, but give each owner the usufruct of the whole stream flowing undivided and indivisible. *Webb v. Portland Mfg. Co.*, 3 Sumner 189, 198 *et seq.*; *Blanchard v. Baker*, 8 Me. 253. The stream cannot be severed into parts for its use. *Plumleigh v. Dawson*, 6 Ill. 550; *Vanderbergh v. Van Bergen*, 13 Johns. 212. Such an owner is under an obligation not to interfere with the flow of the stream in any material way. 3 KENT, COMM. 439 *et seq.* The general rule governing the use of water for extraordinary purposes by riparian owners is that such use must be reasonable and not an interference with the rights of other riparian proprietors. *White v. East Lake Land Co.*, 96 Ga. 415; *Gahlen v. Knord*, 101 Iowa 700; *Elliot v. Fitchburg R. R. Co.*, 64 Mass. 191; *Garwood v. N. Y. Cent. & Hud. R. R. Co.*, 83 N. Y. 400; *Tennessee Coal, Iron, & R. R. Co. v. Hamilton*, 100 Ala. 252. In the principal case one opinion considers it a question for the jury whether the diversion caused by a wing dam would be an unreasonable use of riparian rights. It is the general rule that it is a question of fact for the jury whether a given exercise of riparian rights is reasonable. *Batavia Mfg. Co. v. Newton Wagon Co.*, 91 Ill. 230; *Lowrie v. Silsby*, 76 Vt. 240; *Snow v. Parsons*, 28 Vt. 459; *Pool v. Lewis*, 41 Ga. 162; *Hetrich v. Deackler*, 6 Pa. St. 32. In certain cases, however, if a use is clearly excessive or clearly outside riparian rights it may be declared unreasonable as a matter of law. *Salem Mills v. Lord*, 42 Ore. 82; *Higgins v. Flemington Water Co.*, 36 N. J. Eq. 538. This seems to be the theory of the majority opinion in the principal case.

WILLS—REVOCATION BY MARRIAGE.—Where a man made a will subsequent to a separation agreement between himself and his wife, and a few months later, after a decree of divorce had been granted, the same parties by mutual